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3. Appeal and Error (§ 662 (3)*)—Bill of Exceptions—Conclusiveness.—The bill of exceptions is conclusive on appeal as to what occurred at the trial.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 2852, Dec. Dig. § 662 (3).* 5 Va.-W. Va. Enc. Dig. 367.]

4. Trial (§ 412*)—Objections—Exceptions—Waiver.—Where defendant, after the overruling of its objection to testimony, cross-examined the witness, and after its motion to strike the witness' testimony was overruled and exception taken, participated in the examination of other witnesses testifying to the same matters and offered rebutting evidence, but reserved no further exception, the original exception was not waived.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 182, 974-977; Dec. Dig. § 412.* 5 Va.-W. Va. Enc. Dig. 319.]

5. Street Railroads (§ 113 (1)*)—Negligence—Evidence—Admissibility.—In an action for the death of a child run down by a street car, evidence of the reputation of the motorman in charge of the car for negligence is inadmissible.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 229, 231-233; Dec. Dig. § 113 (1).* 5 Va.-W. Va. Enc. Dig. 313.]

Error to Hustings Court of Richmond.

Action by Davidson's administrator against the Virginia Railway & Power Company. There was a judgment for plaintiff, and defendant brings error. Reversed and remanded.

H. W. Anderson, Thos. P. Bryan, and A. B. Guigon, all of Richmond, for plaintiff in error.

Hunsdon Cary, of Richmond, for defendant in error.

DE BAUN'S EX'X *v.* DE BAUN et al.

June 8, 1916.

[89 S. E. 229.]

1. Husband and Wife (§ 117*)—Separate Estate—Statutes—Property Devised.—Under the New Jersey act of March 25, 1852 (P. L. p. 407), a married woman took the legal title to property conveyed or devised to her, and not simply the equitable title thereto.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. §§ 418-421, 423; Dec. § 117.* 7 Va.-W. Va. Enc. Dig. 195.]

2. Husband and Wife (§ 43*)—Separate Estate—Loan to Husband.—When a wife having legal title to her separate estate loaned money thereof to her husband in 1869 and 1870, taking his notes for its re-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

payment, and both considered it as a mere loan, the relation of debtor and creditor was created, and not an express trust.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. § 226; Dec. Dig. § 43.* 7 Va.-W. Va. Enc. Dig. 222.]

3. Husband and Wife (§ 205 (4)*)—Action—Wife's Separate Estate.—In 1869 and until March, 1900, a wife could sue her husband in equity for debts due her because of her loans to him from her separate estate, and after March, 1900, she could sue him at law under the present married womans' law (Laws 1900, c. 1139).

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. §§ 748, 749, 754, 970; Dec. Dig. § 205 (4).* 7 Va.-W. Va. Enc. Dig. 229.]

4. Equity (§ 87 (1)*)—Laches—Following Statute of Limitations.—Where a married woman has had the right to sue in equity for debts due her, equity will apply the statute of limitations by analogy to the rule which obtains in courts of law.

[Ed. Note.—For other cases, see Equity, Cent. Dig. §§ 242, 244, 395; Dec. Dig. § 87 (1); Limitation of Actions, Cent. Dig. §§ 169, 170.* 9 Va.-W. Va. Enc. Dig. 381.]

5. Husband and Wife (§ 43*)—Trusts—Creation—Resulting Trusts.—When a wife having legal title to her separate estate loaned money thereof to her husband in 1869 and 1870, taking his notes for its repayment, and both considered it as a mere loan, the relation of debtor and creditor was created, and not a resulting trust, although he had bought and taken a deed for a farm prior to such transaction, and used some of the borrowed money to pay up purchase-money notes.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. § 226; Dec. Dig. § 43.* 7 Va.-W. Va. Enc. Dig. 229.]

6. Limitation of Actions (§ 48 (1)*)—Debt Due—Wife's Separate Estate.—In such case where the notes had been due for more than 45 years, they were barred by limitations.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. § 259; Dec. Dig. § 48 (1).* 9 Va.-W. Va. Enc. Dig. 381.]

Appeal from Circuit Court, Norfolk County.

Suit between De Baun's executrix and De Baun and others. From a decree, De Baun's executrix appeals. Affirmed.

Jeffries & Jeffries and *Jeffries, Wolcott, Wolcott & Lankford*, all of Norfolk, for appellant.

R. H. Bagby, of Portsmouth, *E. R. F. Wells*, of Norfolk, *E. M. Baum*, and *Wm. McK. Woodhouse*, of Norfolk, for appellees.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.